CWP No. 1771 of 2007

20.11.2007. Present: Mr.Neeraj K.Sharma, counsel for the petitioner.
Mr.M.S. Chandel, Advocate General with Mr.R.M. Bisht, Dy.A.G., for the respondents.

The petitioner was regularized as Daily Wage Pump Operator w.e.f. 28th November, 2002, on notional basis, vide order dated 13th August, 2003. Though this order was passed on 13th August, 2003, the petitioner filed an Original Application before the H.P. State Administrative Tribunal on 7th November, 2005 claiming therein that in fact his regularization should have been w.e.f. 1.1.2000 when he completed 10 years of service on daily basis. The learned Tribunal has rejected this application solely on the ground that the same is time barred.

Under the provisions of Section 21 of the Administrative Tribunals Act, limitation for filing an Original Application is one year from the date of cause of action. In this case, the cause of action arose on 13th August, 2003. One year was completed on 12th August, 2004. Mr.Neeraj K.Sharma, learned counsel for the petitioner, has raised two contentions before us; 1) that in the similar matter of Shri Bal Ram, the case filed by him was allowed and orders were passed in his favour on 7th March, 2005 and 2) that it is continuing cause of action and, therefore, the plea of limitation was not available to the State.

We are not in agreement with the learned counsel for the petitioner. As far as the case of Shri Bal Ram is concerned, it is apparent that the said official had filed OA No.1720 in the year 2001 itself challenging his order. The petitioner slept over the matter

whereas Shri Bal Ram was vigilant about his rights. The petitioner cannot be permitted to take advantage of orders passed in favour of Shri Bal Ram.

As far as second contention of Mr.Neeraj K.Sharma, learned counsel for the petitioner, is concerned, reliance is placed by him on the judgment of the Apex Court in **M.R. Gupta v. Union of India and others, AIR 1996 Supreme Court 669,** wherein it was held that the claim to be paid the correct salary computed on the mbasis of proper pay fixation is a right which subsists during the entire tenure of service and subsists so long as the person is in service. We are of the view that this judgment is not applicable to the facts of the present case since here the relief sought is with regard to the date of regularization. This was the main relief sought and would be the one time action as contemplated by the Apex Court. It may be true that the consequential results may be faced by the petitioner every month, but unless the date of regularization is changed, the consequential benefits cannot be given. The learned Tribunal rightly held that the Original Application has not been filed within limitation.

Therefore, we find no merit in the writ petition, which is dismissed accordingly. No order as to costs.

(Deepak Gupta), J.

November 20, 2007. **(V.K. Ahuja), J.**
(TILAK)